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S.J.R. No. 34

A JOINT RESOLUTION

1 proposing a constitutional amendment creating the Texas Gaming
2 Commission and authorizing and regulating casino games and slot
3 machines by licensed operators and certain Indian tribes to provide
4 money for the property tax relief fund and additional financial aid
5 for higher education students.

6 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Section 47(a), Article III, Texas Constitution,
8 is amended to read as follows:

9 (a) The Legislature shall pass laws prohibiting lotteries
10 and gift enterprises in this State other than those authorized by
11 Subsections (b), (d), and (e) of this section and Section 47a of
12 this article.

13 SECTION 2. Article III, Texas Constitution, is amended by
14 adding Section 47a to read as follows:

15 Sec. 47a. (a) Casino gaming is authorized in this state in
16 accordance with this section to provide additional money for the
17 property tax relief fund and additional financial aid for higher
18 education students.

19 (b) The Texas Gaming Commission is established. The
20 commission is composed of five members appointed by the governor
21 with the advice and consent of the senate. Commission members serve
22 staggered six-year terms, with one or two members' terms, as
23 applicable, expiring February 1 of each odd-numbered year. The
24 governor shall fill a vacancy in a position on the commission for

1 the remainder of the unexpired term. The governor shall designate a
2 commission member as presiding officer of the commission to serve
3 in that capacity at the pleasure of the governor.

4 (c) To be eligible for appointment to the commission, a
5 person:

6 (1) must be a citizen of the United States;

7 (2) must have resided in this state for the two years
8 preceding the date of the person's appointment;

9 (3) may not own a financial or other interest in an
10 entity engaged in the conduct of gaming or the provision of casino
11 or slot services, or in a security issued by such an entity, or be
12 related within the second degree by affinity or the third degree by
13 consanguinity as determined by general law to an individual who
14 owns such a financial or other interest or security;

15 (4) may not be an applicant for or holder of a license
16 or other affirmative regulatory approval under a law administered
17 by the commission; and

18 (5) may not be a member of the governing body of a
19 political subdivision of this state.

20 (d) The Texas Gaming Commission has broad authority and
21 shall exercise strict control and close supervision over all
22 activities related to casino and slot gaming authorized and
23 conducted in this state under this section or another law
24 administered by the commission.

25 (e) The Texas Gaming Commission shall appoint an executive
26 director and other necessary personnel and adopt rules the
27 commission considers necessary or desirable for the public interest

1 in carrying out the policy and provisions of this section and the
2 other laws administered by the commission, including rules on:

3 (1) licensing and regulating casino owners, slot
4 establishment owners, gaming managers, gaming employees, and
5 manufacturers and distributors of gaming equipment, including the
6 qualifications, definitions, terms, and fees for licenses;

7 (2) criteria for awarding, denying, revoking, and
8 suspending licenses;

9 (3) exclusion of persons and age requirements;

10 (4) procedures for conducting investigations,
11 inspections, criminal background investigations, audits, complaint
12 investigations, and disciplinary hearings;

13 (5) reporting and internal control requirements for
14 license holders;

15 (6) consequences of criminal convictions of license
16 holders or applicants;

17 (7) enforcement provisions, including disciplinary
18 actions and penalties, and security requirements;

19 (8) prize payment and redemption;

20 (9) regulating the operations of casinos and slot
21 establishments; and

22 (10) standards for gaming equipment.

23 (f) The Texas Gaming Commission shall:

24 (1) issue not more than eight licenses to operate slot
25 establishments in this state to persons who are licensed to conduct
26 pari-mutuel wagering on horse or greyhound races at the location
27 licensed for conducting pari-mutuel wagering on horse or greyhound

1 racers and who comply with requirements of this section and
2 commission rule;

3 (2) issue not more than six licenses to conduct casino
4 gaming to casino-anchored destination attraction development
5 projects located in different urban areas of this state that comply
6 with requirements of this section and commission rule;

7 (3) issue not more than two licenses to conduct casino
8 gaming to casino-anchored destination attraction development
9 projects located on islands in the Gulf of Mexico that are tourist
10 destinations with at least 1,000 guest rooms available for visitors
11 in hotels, motels, or condominiums existing on January 1, 2011, and
12 that comply with requirements of this section and commission rule;
13 and

14 (4) allow an Indian tribe that is recognized by the
15 United States government under federal law to operate slot machines
16 or casino gaming on its Indian land held in trust by the United
17 States on January 1, 1998, in accordance with federal law and:

18 (A) an effective gaming agreement that includes a
19 provision requiring the Indian tribe to remit to this state a
20 portion of its gaming revenue in an amount equal to the rate
21 provided in the agreement; or

22 (B) general state law that includes a provision
23 requiring the Indian tribe to remit to this state a portion of its
24 gaming revenue in an amount equal to the rate provided by the
25 general law.

26 (g) In determining whether or, in the case of multiple
27 applicants competing for a limited number of casino owner's

1 licenses or slot establishment owner's licenses within a geographic
2 area, to whom to grant a license, the Texas Gaming Commission shall
3 consider the following factors:

4 (1) the relative prospective revenue to be collected
5 by this state from the conduct of casino gaming at the casino or
6 slot gaming at the slot establishment and the overall economic
7 impact of each competing applicant's proposed gaming and associated
8 facilities;

9 (2) the relative number of residents of this state who
10 would be employed in an applicant's proposed casino or slot
11 establishment and any proposed associated hotel and nongaming
12 businesses and the relative extent of the applicant's good faith
13 plan to recruit, train, and promote a workforce that reflects the
14 diverse populations of this state in all employment
15 classifications;

16 (3) the relative extent to which an applicant's
17 proposed casino or slot establishment and any proposed associated
18 hotel and nongaming businesses could be reasonably expected to
19 encourage interstate tourism to this state;

20 (4) the relative extent to which the scope, design,
21 location, and construction of the applicant's casino or slot
22 establishment and any associated hotel and nongaming businesses
23 could be reasonably expected to contribute to developing a
24 first-class gaming industry in this state;

25 (5) the applicant's experience in conducting licensed
26 gaming operations and the applicant's financial ability to promptly
27 construct and adequately maintain the casino or slot establishment

sought to be licensed, including the experience of partners of the applicant, of affiliated companies of the applicant or its partners, of key personnel of the applicant or its partners, and of operating companies under contract with the applicant; and

(6) the percentage of equity interest in the applicant owned or to be owned by residents of this state.

(h) To ensure that a requisite level of economic development benefiting the people of this state accompanies each casino or slot establishment for which an owner's license is granted, the Texas Gaming Commission shall require an applicant, as a condition to receiving and holding an owner's license, to commit to building a casino-anchored destination attraction development project or slot establishment that includes total land and development costs of at least:

(1) \$400 million for an urban area project;

(2) \$200 million for an island tourist destination project; or

(3) \$150 million for a slot establishment.

(i) Notwithstanding Subsection (f) of this section:

(1) a license for a casino-anchored destination attraction development project may not be issued in a county unless:

(A) a majority of the voters of the county voted for the proposition that added this section to this constitution; or

(B) the voters of the county have approved a proposition legalizing casino gaming at a local option election

1 held under this section;

2 (2) not more than two casino owner's licenses may be
3 issued for casinos to be located in the same county; and

4 (3) a casino owner's license may not be issued for a
5 location in an area in which casino gaming or slot gaming is
6 prohibited under a gaming agreement between an Indian tribe and
7 this state.

8 (j) The Texas casino and slot gaming fund is a special fund
9 in the state treasury. All application fees, investigation fees,
10 and license fees collected by the Texas Gaming Commission or on the
11 commission's behalf related to casino and slot gaming shall be
12 deposited to the credit of the Texas casino and slot gaming fund.
13 Except as provided by this section, the Texas casino and slot gaming
14 fund shall be used only for the operation of the commission and the
15 administration of this section. If the money in the fund exceeds
16 the amount necessary for the operation of the commission and the
17 administration of this section, the legislature shall transfer any
18 excess amount to the dedicated account known as the property tax
19 relief fund in the general revenue fund. Money from the property
20 tax relief fund shall be appropriated only for a purpose that
21 results in a reduction of the average school district maintenance
22 and operations tax rate or as otherwise provided by general law.

23 (k) An applicant applying for an owner's license for a
24 casino-anchored destination attraction development project must
25 submit to the Texas Gaming Commission a \$50 million application
26 fee. An applicant applying for an owner's license for a slot
27 establishment must submit to the commission a \$25 million

1 application fee. If an applicant is not awarded an owner's license,
2 the commission shall refund the application fee less the costs
3 incurred by the commission in reviewing the application and
4 conducting a criminal background investigation on the applicant.

5 (1) A gaming tax in an amount equal to 15 percent of the
6 gross gaming revenue of the casino operated under the license is
7 imposed on each holder of a casino owner's license. The tax shall be
8 computed and paid on a monthly basis in accordance with the
9 procedures established by rule of the Texas Gaming Commission.

10 (m) A slot gaming tax in an amount equal to 35 percent of the
11 gross slot income of the slot establishment operated under the
12 license is imposed on each holder of a slot establishment owner's
13 license. The tax shall be computed and paid on a monthly basis in
14 accordance with the procedures established by rule of the Texas
15 Gaming Commission.

16 (n) Of the revenue from the taxes imposed by Subsections (l)
17 and (m) of this section:

18 (1) one-thirtieth of the revenue is allocated to the
19 municipality in which the casino to which the license relates is
20 located and one-thirtieth of the revenue is allocated to the county
21 in which the casino to which the license relates is located; or

22 (2) if the casino is located in an unincorporated
23 area, one-fifteenth of the revenue is allocated to the county in
24 which the casino to which the license relates is located.

25 (o) The comptroller of public accounts shall transfer the
26 appropriate amount allocated under Subsection (n) to the
27 appropriate municipalities and counties not less than monthly in

1 the manner the comptroller considers appropriate.

2 (p) Except as otherwise provided by this section, the
3 revenue from the taxes imposed by Subsections (l) and (m) of this
4 section is allocated as follows:

5 (1) one-twentieth to the general revenue fund for
6 appropriation only to fund a compulsive gambling program
7 established by the Texas Gaming Commission;

8 (2) one-thirtieth to the general revenue fund for
9 appropriation only to the Texas Gaming Commission to provide grants
10 to prosecuting attorneys for the investigation and prosecution of
11 offenses related to the possession of gambling devices and illegal
12 gambling operations; and

13 (3) the remainder to the property tax relief fund in
14 the general revenue fund.

15 (q) The comptroller of public accounts quarterly shall
16 determine the net amount of receipts collected from a casino or slot
17 establishment from the sales and use taxes, hotel occupancy taxes,
18 alcoholic beverage taxes, and franchise taxes imposed under general
19 law, or from other taxes imposed under general law as provided by
20 the legislature in general law, and shall deposit that amount in the
21 general revenue fund. The net amount deposited may only be
22 appropriated to fund the TEXAS grant program established under
23 Subchapter M, Chapter 56, Education Code, or a similar program
24 established by the legislature to provide grants to higher
25 education students in this state.

26 (r) Not more than 10 percent of the total floor space of a
27 casino or slot establishment may be used for gaming areas.

1 (s) Casinos and slot establishments are subject to all
 2 applicable state laws and local ordinances related to health and
 3 building codes, including rules adopted by the Texas Gaming
 4 Commission. A local ordinance or zoning law may not prohibit the
 5 development of a casino or slot establishment authorized by this
 6 section, except that a casino or slot establishment may not be
 7 located in an area that on January 1, 2011, was zoned exclusively
 8 residential, unless otherwise provided by commission rule.

9 (t) The commissioners court of a county may at any time
 10 order an election to legalize casino gaming under this section in
 11 that county. The commissioners court shall order and hold an
 12 election to legalize gaming under this section in the county if the
 13 commissioners court is presented with a petition that meets the
 14 requirements of this section and is certified as valid under this
 15 section.

16 (u) A petition for a legalization election must include a
 17 statement substantially as follows before the space reserved for
 18 signatures on each page: "This petition is to require that an
 19 election be held in (name of county) to legalize casino gaming in
 20 (name of county)." A petition is valid only if it is signed by
 21 registered voters of the county in a number that is not less than
 22 three percent of the total number of votes cast for governor by
 23 qualified voters of the county in the most recent gubernatorial
 24 general election. Each voter must enter beside the voter's
 25 signature the date the voter signs the petition. A signature may
 26 not be counted as valid if the date of signing is earlier than the
 27 90th day before the date the petition is submitted to the

1 commissioners court. Each voter must provide on the petition the
2 voter's current voter registration number, printed name, and
3 residence address, including zip code.

4 (v) Not later than the fifth day after the date a petition
5 for an election under this chapter is received in the office of the
6 commissioners court, the commissioners court shall submit the
7 petition for verification to the county clerk. The county clerk
8 shall determine whether the petition is signed by the required
9 number of registered voters of the county. Not later than the 30th
10 day after the date the petition is submitted to the clerk for
11 verification, the clerk shall certify in writing to the
12 commissioners court whether the petition is valid or invalid. If
13 the clerk determines that the petition is invalid, the clerk shall
14 state the reasons for that determination.

15 (w) If the county clerk certifies that a petition is valid,
16 not later than the 30th day after the date of certification, the
17 commissioners court shall order that an election be held in the
18 county on the next uniform election date provided under general law
19 that allows sufficient time to comply with applicable provisions of
20 general law. The commissioners court shall state in the order the
21 issue to be voted on. The county clerk shall notify the Texas
22 Gaming Commission by certified mail, return receipt requested, that
23 an election has been ordered. The ballot in a legalization election
24 shall be printed to provide for voting for or against the
25 proposition: "Legalizing casino gaming within (name of county)."

26 (x) If the majority of the votes cast in a legalization
27 election favor the legalization of casino gaming, casino gaming

authorized under this chapter is permitted within the county
holding the election effective on the 10th day after the date of the
election. The commissioners court of a county in which a
legalization election has been held shall give written notice of
the results of the election to the Texas Gaming Commission not later
than the third day after the date the election is canvassed. If
less than a majority of the votes cast in a legalization election in
any county are cast in favor of the legalization of casino gaming,
casino gaming is not permitted in the county, and a subsequent
election on the issue may not be held in the county before the
corresponding uniform election date one year after the date of the
election. If less than a majority of the votes cast in two
consecutive legalization elections within any county are cast in
favor of the legalization of casino gaming, casino gaming is not
permitted in the county, and a subsequent election on the issue may
not be held in the county before the corresponding uniform election
date five years after the date of the second election.

(y) It is a defense to prosecution for a gambling offense
under general law that the action was authorized under this section
or Texas Gaming Commission rule.

(z) All shipments of video lottery terminals or gaming
devices into, out of, or within this state authorized under this
section or a rule adopted by the Texas Gaming Commission are legal
shipments of the devices and are exempt from the provisions of 15
U.S.C. Sections 1171-1178, prohibiting the transportation of
gambling devices.

(aa) Each state agency, including the attorney general and

1 the comptroller of public accounts and each state or local law
2 enforcement agency, shall cooperate with the Texas Gaming
3 Commission as necessary to implement this section.

4 (bb) The legislature by general law may impose additional
5 restrictions or requirements for the conduct of casino and slot
6 gaming.

7 (cc) Unless specifically authorized by general law, a
8 political subdivision of this state may not impose:

9 (1) a tax on the payment of a casino or slot prize;

10 (2) a tax, fee, or other assessment on consideration
11 paid to play a casino or slot game authorized by this section; or

12 (3) a tax or fee on attendance at or admission to a
13 casino or slot establishment authorized by this section.

14 (dd) In this section, unless modified by general law:

15 (1) "Casino" means a facility at which casino gaming
16 is conducted by a licensed casino owner as authorized by this
17 section.

18 (2) "Casino gaming" means any game of chance or
19 similar activity that involves the making of a bet for
20 consideration. The term includes any type of slot machine or table
21 game wagering using money, casino credit, or any representation of
22 value. The term does not include bingo, charitable raffles, or the
23 state lottery authorized under Section 47 of this article.

24 (3) "Casino owner" means a person, trust, corporation,
25 partnership, limited partnership, association, limited liability
26 company, or other business enterprise that directly holds an
27 ownership or leasehold interest in a casino licensed as provided by

1 this section.

2 (4) "Gross gaming revenue" means the total amount of
3 consideration paid to play casino games less winnings paid to
4 players of the casino games.

5 (5) "Gross slot income" means the total amount of
6 consideration paid to play slot machines less winnings paid to
7 players of the slot machines.

8 (6) "Slot establishment" means a facility at which
9 slot gaming is conducted by a licensed slot establishment owner as
10 authorized by this section.

11 (7) "Slot establishment owner" means a person, trust,
12 corporation, partnership, limited partnership, association,
13 limited liability company, or other business enterprise that
14 directly holds an ownership or leasehold interest in a slot
15 establishment.

16 (8) "Slot gaming" means any game of chance that for
17 consideration is played on a slot machine. The term does not
18 include bingo, charitable raffles, or the state lottery authorized
19 under Section 47 of this article.

20 (9) "Slot machine" means a mechanical, electrical, or
21 other device or machine that, on insertion of a coin, token, or
22 similar object or on payment of consideration, is available to play
23 or operate a game, the play or operation of which, wholly or partly
24 by the element of chance, may deliver or entitle the person playing
25 or operating the device or machine to receive cash, premiums,
26 merchandise, tokens, or any other thing of value, whether the
27 payoff is made automatically from the device or machine or is made

1 in another manner.

2 SECTION 3. The following temporary provision is added to
3 the Texas Constitution:

4 TEMPORARY PROVISION. (a) This temporary provision applies
5 to the constitutional amendment proposed by the 82nd Legislature,
6 Regular Session, 2011, creating the Texas Gaming Commission and
7 authorizing and regulating casino games and slot machines by
8 licensed operators and certain Indian tribes to provide money for
9 the property tax relief fund and additional financial aid for
10 higher education students.

11 (b) Not later than January 1, 2012, the governor shall
12 appoint the initial members of the Texas Gaming Commission in
13 accordance with Section 47a, Article III, of this constitution. In
14 making the initial appointments, the governor shall designate one
15 member to a term expiring February 1, 2013, two members to terms
16 expiring February 1, 2015, and two members to terms expiring
17 February 1, 2017.

18 (c) Not later than March 1, 2012, the Texas Gaming
19 Commission shall adopt the rules, including any emergency rules,
20 necessary to implement Section 47a, Article III, of this
21 constitution.

22 (d) This temporary provision expires January 1, 2013.

23 SECTION 4. This proposed constitutional amendment shall be
24 submitted to the voters at an election to be held November 8, 2011.
25 The ballot shall be printed to permit voting for or against the
26 proposition: "The constitutional amendment creating the Texas
27 Gaming Commission and authorizing and regulating casino games and

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1 slot machines by licensed operators and certain Indian tribes to
2 provide money for the property tax relief fund and additional
3 financial aid for higher education students."